

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Appln. No. 09/653,408

**REMARKS**

Claims 1-3 and 5-10 are pending in the application after entry of the foregoing amendments. Claims 7-10 are newly added.

**35 U.S.C. § 103:**

Claims 1 and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sperry (U.S. Patent 1,362,753) in view of Utsunomiya et al. (U.S. Patent 4,442,371). Applicant respectfully traverses this rejection in view of the following remarks.

The present invention provides a novel and unobvious wind-power generator pod. The invention advances the art by disclosing features which further define beneficial aspects of a wind-powered generator. One aspect of the invention is the ability to direct hot air, created within the pod, to the fairing so that conduction is permitted between the pod and ambient flowing air. Contributing to this beneficial feature are the claimed lateral openings which extend through the stator.

As noted in the Office Action, Sperry does not disclose a stator having lateral openings which extend therethrough. In an effort to make up for this lack of teaching, Utsunomiya is cited for disclosing a stator having a stator core 2, a rotary shaft 13, an air inlet 17 and an air outlet 18. Applicant takes this opportunity to point out why one skilled in the art would not have combined the device of Utsunomiya with Sperry so as to arrive at the present invention.

It is well established that a modification cannot render the prior art unsatisfactory for its intended purpose. (See MPEP §2143.01). Further, there must be some teaching or suggestion

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found in the art to modify a reference. At least these requirements are lacking from the applied art.

Utsunomiya discloses the air inlet 17 and the air outlet 18. The positioning and configuration of the stator disclosed in Utsunomiya are necessary for that to operate. In particular, air must flow into the air inlet 17 and must flow out of the air outlet 18. Both of these openings are disposed at a top outer periphery area of the stator (see Figure 2). In regard to the positioning of the claimed stator, the Office Action relies on the elements 4 and 5 of Sperry by alleging that they contact the hollow tail piece 13, which is applied against the claimed fairing (see section 2 of the Office Action). Without conceding as to whether Sperry actually discloses this feature, Applicant focuses on why one would not have combined the stator of Utsunomiya with Sperry and why the claims should be allowed.

A replacement of the elements 4 and 5 of Sperry with the device of Utsunomiya would result in the device of Utsunomiya contacting the alleged fairing 13 of Sperry. However, as would be appreciated by one skilled in the art, such a combination would essentially “suffocate” the device of Utsunomiya by blocking the air intake 17 due to the stator being required to contact alleged fairing 13 of Sperry. This is because if the references were combined, the air intake 17 of Sperry would be pushed up to and engaged with the piece 13 so as to block the air intake 17 and air outlet 18. Thus, one would not have been motivated to make this combination.

Accordingly, Applicant respectfully requests the Examiner to reconsider the rejection wherein he will presumably better understand why one would not have made such a

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combination. Withdrawal of the rejection of claims 1 and 7 under 35 U.S.C. § 103(a) is requested to be withdrawn.

*Claims 5 and 6*

Claims 5 and 6 are rejected under 35 U.S.C. § 103(a) as unpatentable over Sperry and Utsunomiya in view of Carter (U.S. Patent 4,366,387). Applicant traverses this rejection in view of the following remarks.

Claims 5 and 6 are deemed patentable over the applied references due to their individual recitations and because of them depending from claim 1; this is because Carter fails to make up for the deficient teachings of Sperry and Utsunomiya. Further, the deficient teachings of Sperry and Utsunomiya are neither taught nor suggested by Carter. The rejection of claims 5 and 6 is their requested to be withdrawn.

*Claim 2*

Claim 2 is rejected under 35 U.S.C. § 103(a) over Sperry in view of Utsunomiya and Benoit (U.S. 4,350,898). Applicant traverses this rejection in view of the following remarks.

Claim 2 is deemed patentable over the applied references due to its individual recitations and because it depends from claim 1; this is because Benoit fails to make up for the deficient teachings of Sperry and Utsunomiya. Further, the deficient teachings of Sperry and Utsunomiya are neither taught nor suggested by Benoit.

Moreover, one would not have been motivated to combine Sperry, Utsunomiya and Benoit. The device of Benoit is taught to be held via tethering cables 22 and 24. In contradistinction, the device of Sperry is supported using a stem 14. Thus, the alleged tubular

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sleeve of Benoit could not be positioned around the device of Sperry because the stem 14 would not permit such a placement. Essentially, the stem 14 of Sperry would have to puncture through the device of Benoit, which is clearly not what the references teach or suggest. Withdrawal of the rejection is requested.

*Claim 3*

Claim 3 is rejected under 35 U.S.C. § 103(a) over Sperry in view of Utsunomiya and Rao (U.S. 6,133,659). Applicant traverses this rejection in view of the following remarks.

Claim 3 is deemed patentable over the applied references due to its dependency on claim 1 and its individual recitations; this is because Rao fails to make up for the deficient teachings of Sperry and Utsunomiya. Further, the deficient teachings of Sperry and Utsunomiya are neither taught nor suggested by Rao. Withdrawal of the rejection is requested.

**NEW CLAIMS:**

Claims 7-10 are added to obtain more varied protection for the invention. The novel and unobvious features of these claims contribute to beneficial aspects of the invention and are not taught nor suggested by the applied art.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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Respectfully submitted,



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